



**4910-13**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 21**

**[Docket No. FAA-2012-0408]**

**Issuance of Special Airworthiness Certificates for Light-Sport Category Aircraft**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of policy; request for comments.

**SUMMARY:** Based upon its assessment of the special light-sport aircraft (SLSA) manufacturing industry, the FAA is issuing this notice of policy to inform the public of its policy for assessing the accuracy of declarations made in Statements of Compliance issued for aircraft intended for airworthiness certification as SLSA and to ensure that SLSA conform to identified consensus standards. Additionally, in response to findings noted in its assessment of the SLSA manufacturing industry, the FAA is reiterating its policy regarding the airworthiness certification of SLSA manufactured outside the United States.

**DATES:** Effective Date: This policy becomes effective [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Comment Date: Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may send comments identified by Docket Number FAA-2012-0408 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.

- *Mail:* Send Comments to Docket Operations, M-30; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, West Building Ground Floor, Washington, DC 20590-0001.
- *Hand Delivery:* Take comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* (202) 493-2251.

**FOR FURTHER INFORMATION CONTACT:** For technical questions concerning this policy statement, contact Richard Posey, Federal Aviation Administration, Airworthiness Certification Branch AIR-230, FAA Headquarters, 800 Independence Avenue, S.W., Washington, DC 20591; telephone: (202) 385-6378; fax: 202-385-6475 e-mail: richard.posey@faa.gov. For legal questions concerning this policy statement, contact Paul Greer, AGC-200, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3083; e-mail: paul.g.greer@faa.gov.

**SUPPLEMENTARY INFORMATION:** In the following section, we discuss how you can comment on this policy statement and how we will handle your comments. Included in this discussion is related information about the docket, privacy, and the handling of proprietary or confidential business information. We also discuss how you can get a copy of this policy statement and related documents.

### *Comments Invited*

The FAA invites interested persons to participate in formulating this policy statement and request for comments by submitting written comments, data, or views. The most helpful comments reference a specific portion of the notice, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, please send only one copy of written comments, or if you are filing comments electronically, please submit your comments only one time.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this notice. Before acting on this notice, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this policy in light of the comments we receive.

We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. Using the search function of our docket web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477–78) or you may visit <http://DocketsInfo.dot.gov>.

To read background documents or comments received, go to <http://www.regulations.gov> at any time and follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor

at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

#### *Proprietary or Confidential Business Information*

Do not file in the docket information that you consider to be proprietary or confidential business information. Send or deliver this information directly to the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document. You must mark the information that you consider proprietary or confidential. If you send the information on a disk or CD-ROM, mark the outside of the disk or CD-ROM and also identify electronically within the disk or CD-ROM the specific information that is proprietary or confidential. When we are aware of proprietary information filed with a comment, we do not place it in the docket. We hold it in a separate file to which the public does not have access, and we place a note in the docket that we have received it. If we receive a request to examine or copy this information, we treat it as any other request under the Freedom of Information Act (5 U.S.C. 552). We process such a request under the DOT procedures found in 49 CFR part 7.

#### **Availability of this Policy**

You can get an electronic copy using the Internet by—

- (1) Searching the Federal eRulemaking Portal (<http://www.regulations.gov>);
- (2) Visiting the FAA's Regulations and Policies Web page at [http://www.faa.gov/regulations\\_policies/](http://www.faa.gov/regulations_policies/); or
- (3) Accessing the Government Printing Office's Web page at <http://www.gpoaccess.gov/fr/index.html>.

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue, SW.,

Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the docket number or notice number of this policy statement. You may access all documents the FAA considered in developing this policy statement, including any analysis or technical reports, from the internet through the Federal eRulemaking Portal referenced in paragraph (1).

## **Background**

On July 24, 2004, the final rule, Certification of Aircraft and Airmen for the Operation of Light-Sport Aircraft, was published in the Federal Register (69 FR 44772). The rule established requirements for the issuance of airworthiness certificates for light–sport category aircraft under the provisions of Title 14, Code of Federal Regulations (14 CFR) § 21.190, *Issue of special airworthiness certificates for light-sport category aircraft*. Additionally, the rule established procedures for the airworthiness certification of these aircraft in accordance with industry-developed consensus standards. Through the use of consensus standards, the FAA believed that light-sport aircraft (LSA) could be designed, manufactured, and certificated with less FAA oversight than that required for an aircraft manufactured under type and production certification procedures.

Persons presenting an aircraft for airworthiness certification in the light-sport category must provide the FAA with a Statement of Compliance (FAA Form 8130-15) issued by the aircraft’s manufacturer indicating that the aircraft meets the provisions of an identified consensus standard that has been accepted by the FAA. Additionally, an aircraft presented for airworthiness certification as SLSA must be inspected to determine that it is in a condition for safe operation. This inspection is accomplished after the aircraft has been completed but before issuance of the airworthiness certificate. The airworthiness certification process also requires a review of the applicant’s documentation supplied with the aircraft, which includes the manufacturer’s Statement of Compliance.

When originally proposing the rule, the FAA noted that an aircraft presented for airworthiness certification would be inspected by the FAA (or an FAA-designated representative) to determine that it is in a condition for safe operation. The person conducting the inspection would rely upon the manufacturer's Statement of Compliance to assist in determining that the aircraft meets the applicable consensus standards. At the time that the rule was originally proposed, the FAA indicated that it would follow this course of action unless FAA experience with a manufacturer dictated otherwise (67 FR 5378; February 5, 2002). This intent remained unchanged with publication of the final rule.

As the number of aircraft certificated as SLSA rapidly grew, the FAA determined that it was appropriate to conduct an assessment to evaluate the health, state of systems implementation, and compliance of the SLSA industry. From September 2008 through March 2009, the Aircraft Certification Service, Production and Airworthiness Division (AIR-200) conducted an assessment of SLSA manufacturers by evaluating their systems and processes through on-site evaluation, analysis, and reporting.

The FAA assessment team collected data from SLSA manufacturers (including their extensions and distributors located in the United States) regarding compliance with applicable regulations and standards. After reviewing this data the team recommended enhancements to industry consensus standards for LSA design, manufacturing, continued airworthiness, and maintenance. It also made recommendations for changes to agency internal processes and procedures. A copy of the report can be found in the docket for this notice.

Among the report's conclusions, the FAA found that the majority of the manufacturing facilities evaluated could not fully substantiate that the aircraft for which

they had issued Statements of Compliance did, in fact, meet the consensus standards identified in those documents. Therefore, the FAA could not determine that aircraft for which these statements were issued actually met the provisions of the identified consensus standards.

The assessment raised concerns that the SLSA airworthiness certification process, as originally envisioned, does not always achieve its intended purpose. Additionally, the FAA was particularly concerned that SLSA manufacturers have not been sufficiently verifying that their continued airworthiness systems are functioning properly. The FAA has determined that its original policy of reliance on manufacturers' Statements of Compliance for the issuance of airworthiness certificates for SLSA under the provisions of § 21.190 should be reconsidered and that more FAA involvement in the airworthiness certification process for SLSA is warranted.

#### *Manufacturers Statement of Compliance*

The FAA notes that a manufacturer's Statement of Compliance presented during the airworthiness certification process for an SLSA must contain a statement that at the request of the FAA, the manufacturer will provide unrestricted access to its facilities. The Statement of Compliance, when signed by the aircraft's manufacturer, sets forth the manufacturer's consent to FAA inspection of its facilities and constitutes an assertion that the information contained in the document is true. If, upon examination, the FAA finds that the manufacturer's statements are not accurate, an airworthiness certificate will not be issued for that SLSA until it has been demonstrated that the aircraft meets the identified consensus standards and that the manufacturer is able to comply with the provisions of its Statement of Compliance. SLSA manufacturers signing a Statement of Compliance must ultimately be able to demonstrate their ability to carry out those functions and

responsibilities referenced in the statement to the satisfaction of the FAA, and meet all other relevant airworthiness certification requirements.

### *SLSA Manufacturers*

The current process for airworthiness certification of SLSA is described in FAA Order 8130.2, Airworthiness Certification of Aircraft and Related Products. The process includes reviewing the applicant's documentation supplied with the aircraft, and verifying it agrees with the identification and description of the aircraft and that it conforms to applicable regulations. The FAA considers an SLSA manufacturer to be a person who not only can attest to meeting the provisions of 14 CFR § 21.190, but who can demonstrate these abilities to the satisfaction of the FAA. A person who cannot demonstrate these abilities, or complete the manufacturer's Statement of Compliance would not be considered a manufacturer.

The Statement of Compliance issued for an SLSA in accordance with § 21.190(c), by an SLSA manufacturer, must:

- (1) Identify the aircraft by make and model, serial number, class, date of manufacture, and consensus standard used;
- (2) State that the aircraft meets the provisions of the identified consensus standard;
- (3) State that the aircraft conforms to the manufacturer's design data, using the manufacturer's quality assurance system that meets the identified consensus standard;
- (4) State that the manufacturer will make available to any interested person the following documents that meet the identified consensus standard:
  - (i) The aircraft's operating instructions.
  - (ii) The aircraft's maintenance and inspection procedures.
  - (iii) The aircraft's flight training supplement.



(5) State that the manufacturer will monitor and correct safety-of-flight issues through the issuance of safety directives and a continued airworthiness system that meets the identified consensus standard;

(6) State that at the request of the FAA, the manufacturer will provide unrestricted access to its facilities; and

(7) State that the manufacturer, in accordance with a production acceptance test procedure that meets an applicable consensus standard has—

(i) Ground and flight tested the aircraft;

(ii) Found the aircraft performance acceptable; and

(iii) Determined that the aircraft is in a condition for safe operation.

If a manufacturer cannot demonstrate it can perform the functions specified in the Statement of Compliance for an SLSA or cannot substantiate that those functions have been (or can be, as appropriate) accomplished, the FAA would not consider that person to be the manufacturer of the aircraft intended for airworthiness certification as an SLSA.

Persons providing the FAA with a Statement of Compliance must understand the implications of making the statement. The FAA expects the Statement of Compliance to reflect the manufacturer's understanding of its responsibilities, its capability to execute those responsibilities fully, and a commitment to meeting its obligations in the future.

The FAA is particularly concerned that manufacturers issuing a Statement of Compliance have a system to monitor and correct safety-of-flight issues. The manufacturer therefore must be able to monitor and notify operators to correct unsafe conditions for as long as these aircraft are U.S.-registered. The manufacturer also is responsible for issuing corrective actions in accordance with its program to monitor and correct safety-of-flight issues and must notify the owners of the affected aircraft of these corrective actions. To

ensure the success of the FAA's program for SLSA airworthiness certification, the FAA expects manufacturers to implement a vigorous system to monitor and correct safety-of-flight issues.

SLSA manufacturers must be able to provide for the continued operational safety of their aircraft. In order to meet this obligation, which the manufacturer has accepted through its issuance of a Statement of Compliance, it must maintain adequate engineering data and engineering staff to monitor and correct safety-of-flight issues affecting the aircraft. This continuing obligation is incurred by both manufacturers who have issued Statements of Compliance for aircraft that are currently certificated as SLSA and manufacturers who have issued Statements of Compliance for aircraft being presented for airworthiness certification.

If, during the FAA's examination of an aircraft, it finds that the aircraft was received from a location outside the United States and only assembled within the United States, the requirements of 14 CFR § 21.190(d) must be met for the aircraft to be considered eligible for an airworthiness certificate. This is further clarified in the following section.

#### *SLSA Manufactured Outside the United States*

Aircraft intended for airworthiness certification as SLSA that have been manufactured outside the United States must be manufactured in country with which the United States has a Bilateral Airworthiness Agreement concerning airplanes, a Bilateral Aviation Safety Agreement with associated Implementation Procedures for Airworthiness concerning airplanes, or an equivalent airworthiness agreement. The aircraft must also be eligible for an airworthiness certificate, flight authorization, or other similar certification in its country of manufacture. These requirements are set forth in 14 CFR § 21.190(d).

During the recent assessment, the FAA identified several anomalies involving aircraft manufactured outside the United States. These included:

- Aircraft manufactured outside the United States that were shipped disassembled to the United States, and assembled by U.S. persons who declared themselves to be the U.S. manufacturers. The FAA found that some aircraft were manufactured in countries with a bilateral agreement and some were not. In both situations, the U.S. persons who performed the assembly did not, or could not, carry out the functions to which they attested in their Statements of Compliance for the aircraft.
- Aircraft manufactured in countries without bilateral agreements that were “passed through” a country with which the U.S. has a bilateral agreement. A person in the country with which the U.S. has a bilateral agreement completed the Statement of Compliance before shipping the aircraft to the United States. Again, these persons did not, or could not, carry out the functions to which they attested in their Statements of Compliance for the aircraft.
- Aircraft for which a foreign entity claimed responsibility for certain aspects of the Statement of Compliance and a U.S. person claimed responsibility for the remaining aspects, thereby splitting the manufacturer’s responsibility between two distinct persons; and
- Aircraft manufactured in countries with appropriate bilateral agreements by entities that would ship the aircraft to a U.S. distributor. Neither the U.S. distributor nor the foreign entity could maintain a program to correct safety-of-flight issues as attested to in the aircraft’s Statement of Compliance.

The assessment clearly identified that aircraft have been supplied to U.S. persons who lack the ability to reasonably attest to the provisions set forth in § 21.190(c). Additionally,

U.S. persons have been providing the FAA with a manufacturer's Statement of Compliance identifying themselves as the U.S. manufacturer of an aircraft when the aircraft was in fact produced outside the United States. These situations are not in compliance with the regulations. The FAA did not intend for U.S. persons to receive disassembled LSA from outside the United States, reassemble them within the United States, and characterize themselves as the U.S. manufacturer of an SLSA. As these persons cannot substantiate the information contained in the Statement of Compliance, the FAA does not consider them to be the manufacturers of the aircraft. Accordingly, the FAA will not issue airworthiness certificates in the light-sport category for these aircraft.

Additionally, persons who are unable to make available the documents required by the consensus standards and regulations, do not have the systems in place to monitor and correct safety-of-flight issues, or are unable to adequately ensure the continued airworthiness of the aircraft they assemble, would not be able to sign a Statement of Compliance as a manufacturer. The FAA also notes that any person who makes any fraudulent, intentionally false, or misleading statement on the Statement of Compliance could be found to be in violation of 14 CFR 21.2.

The FAA recognizes that it may be possible for a U.S. person to receive portions of a LSA from an entity outside the United States that is acting as a supplier to the U.S. SLSA manufacturer. If this person signs a Statement of Compliance, this person is asserting that the declarations made in the statement are true, and that the person can fulfill the responsibilities set forth in that statement. While some of the U.S. SLSA manufacturers can meet this standard; the FAA has concerns that many cannot substantiate the declarations made in their Statement of Compliance when the majority of the production activity for the aircraft takes place outside the United States.

The provisions of § 21.190(d) were enacted to ensure that a bilateral agreement would exist which would provide the FAA with a means, if necessary, to seek assistance from local civil aviation authorities on any issues affecting the design, production, continued airworthiness, or other matters needing investigation or analysis (69 FR 44806). Any attempts to circumvent the provisions of § 21.190(d) significantly hinder the FAA's ability to address safety issues affecting aircraft certificated as SLSA.

#### *Effect of this Policy Statement*

The FAA's actions are intended to ensure compliance with existing regulations and enhance the safety of the existing and future SLSA fleet. The FAA recognizes that these actions may impact existing SLSA manufacturers as well as those persons intending to initiate SLSA production. The FAA has established a Frequently Asked Questions page at [http://www.faa.gov/aircraft/gen\\_av/light\\_sport/](http://www.faa.gov/aircraft/gen_av/light_sport/) to assist current manufacturers in assessing their own capabilities, and ensuring that the Statements of Compliance they issue are accurate.

Aircraft that were issued an airworthiness certificate prior to the effective date of this notice are not affected by this policy statement provided all other applicable requirements are met.

The FAA recognizes that upon implementation of this policy, some entities who have claimed to be SLSA manufacturers may not be able to issue a valid Statement of Compliance, and that other entities may not be willing to assume responsibility for continuing operational safety requirements. Therefore, aircraft within the existing fleets from these manufacturers may no longer be eligible to retain their airworthiness certification as SLSA. These aircraft, however, may be eligible for airworthiness certification as experimental light-sport aircraft (ELSA). The FAA does not intend to

accept continued operational safety responsibility for an SLSA whose manufacturer no longer exists or is unable or unwilling to assume that responsibility. The FAA also recognizes that some aircraft that are primarily manufactured outside the United States and assembled in the United States may be found to be ineligible for airworthiness certification as SLSA or ELSA.

Issued in Washington, DC, on June 19, 2012.

Frank P. Paskiewicz

Deputy Director, Aircraft Certification Service

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